Bekhorot 42

Daf Yomi · Friday, October 30, 2026 · י״ט חשון תשפ״ז · Covers 41b (Rav Chisda) through 43a (end of chapter)

Summary

Bekhorot 42 is devoted to two unusual kinds of animal (and, by extension, person): the *tumtum* (טומטום), whose genitals are concealed by skin so that its sex cannot be seen, and the *androginos* (אנדרוגינוס), who has both male and female organs. The Mishnah on 41a ruled that a firstborn of either kind may not be slaughtered in the Temple or outside it; R. Yishmael called the *androginos* a firstborn whose blemish is built in, while the later Sages said it is not a firstborn at all. At the end of 41b Rav Chisda limited that dispute: the later Sages regard the *androginos* as a *beryah* (בריה), a category of its own, but everyone agrees that a *tumtum* is merely a doubt, either male or female, and is therefore holy out of doubt.

The first half of the daf tests Rav Chisda's claim against five baraitot, each of which lists the *tumtum* together with the *androginos* as excluded from a law in a way that only makes sense if it is a separate creature: valuation vows (*arakhin*), peace offerings, burnt offerings, bird offerings and substitution (*temurah*). The key logic, stressed repeatedly by Rashi, is that "before Heaven there is no doubt": a verse does not exclude something merely because *we* cannot tell what it is. Rav Chisda answers each source the same way, "delete *tumtum* from here" (סמי מיכן טומטום), even when one baraita explicitly counts "five" items, in which case he substitutes the *yatom*, an animal whose mother died as it was born.

The Gemara then finds a Tannaitic dispute that seems to undercut Rav Chisda outright: R. Shimon ben Yehuda says every "male" in the Torah excludes both *tumtum* and *androginos*. The resolution reframes the whole question. All agree a *tumtum* is not a separate creature; they disagree only about one that urinates from the female position: is it a female, or a male whose organ may have been inverted? This leads to R. Elazar's ruling that such an animal is ordinary (unconsecrated), R. Yochanan's sharp objection that it ignores two Tannaim in favor of one, and Reish Lakish's view that among animals the urinary opening settles the matter, unlike in humans. Rav Oshaya's challenge brings in R. Meir's concern for minorities and the principle הואיל ואישתני אישתני, "since it has changed, it has changed": an already abnormal body may be abnormal in further ways.

The daf closes by asking whether that principle is itself a Tannaitic dispute, using two baraitot about the wife of a human *tumtum* and the laws of levirate marriage (*yibbum*) and its release (*chalitzah*). The Gemara concludes that both baraitot accept the principle and differ instead about the congenital eunuch (R. Eliezer versus R. Akiva), identifies the second baraita with R. Yosi b. R. Yehuda, and Rava defines the practical difference between him and his father, R. Yehuda. With that, the chapter *Al Elu Mumin* concludes at the top of 43a, and a new chapter on the blemishes that disqualify a kohen begins.

Detailed Summary

1. Background: the Mishnah on *tumtum* and *androginos* 41a–41b

A *bekhor* (בכור) is the firstborn male of a cow, sheep or goat. It is holy from birth and belongs to a kohen. If it is unblemished it is offered on the altar; if it has a permanent blemish it may be slaughtered and eaten "in the provinces" (במדינה), that is, outside the Temple, like ordinary meat. Even then, as long as it lives, one may not shear it or work with it (גיזה ועבודה). Only a *male* firstborn is holy, so the question arises: what about an animal whose sex is unclear?

MISHNAH (BEKHOROT 41a), the clause discussed on our daf

וטומטום ואנדרוגינוס לא במקדש ולא במדינה. ר״ש אומר אין לך מום גדול מזה, וחכמים אומרים אינו בכור אלא נגזז ונעבד.

Within a list of animals that "may be slaughtered neither in the Temple nor in the provinces," the Mishnah includes a firstborn *tumtum* or *androginos*. The dissenting Tanna (the Gemara, quoting this clause, calls him R. Yishmael) says: there is no greater blemish than this, so it may be slaughtered outside. The Sages say: it is not a firstborn at all; it may be shorn and worked like any ordinary animal.

The Gemara on 41a explained the first Tanna. A *tumtum* cannot be offered in the Temple because it may be a female (and then it is not a firstborn); it cannot be slaughtered outside because it may be a male with no blemish. As for the *androginos*, Abaye and Rava showed that its female opening, being in flesh rather than bone, does not count as a blemish. R. Yishmael, however, considers it the worst of blemishes.

On 41b Rava asked whether R. Yishmael is *certain* that an *androginos* is a male firstborn, or only says "if it is a firstborn, its blemish is with it." The Gemara cited a baraita on the burnt offering: "male" is written twice, and the second, superfluous mention excludes the *tumtum* and *androginos*. It cannot be the first Tanna, who treats them as doubts, since a verse does not come to exclude a doubt. Nor, it was first thought, the later Sages, since they derive everything from the single "male" of the firstborn. So it must be R. Yishmael, who is certain the *androginos* is male, which is why a verse is needed to exclude it from the altar. The Gemara rejected the proof: it could be the later Sages after all, for the firstborn has two verses, הזכר והזכרים.

2. Rav Chisda: the dispute concerns only the *androginos* 41b

The Gemara now turns to the Sages' clause, "it is not a firstborn." Rav Chisda says: מחלוקת באנדרוגינוס אבל בטומטום דברי הכל ספיקא הוא וקדוש מספיקא, "the dispute is about the *androginos*; but a *tumtum*, everyone agrees, is a doubt, and it is holy out of doubt." The later Sages hold that the *androginos*, with both sets of organs, is a *beryah bifnei atzmah*, a creature in its own category, neither male nor female, so firstborn sanctity never takes hold of it. A *tumtum* is different: it really is one sex or the other; we simply cannot see which.

Rashi – ד"ה אבל טומטום דברי הכל ספק

THE ISSUE. What does "holy out of doubt" mean in practice, since a doubtful firstborn cannot be sacrificed either?

RASHI'S EXPLANATION. The *tumtum* is forbidden in shearing and work, like any firstborn, and it may be slaughtered neither in the Temple nor outside.

WHY IT MATTERS. Rav Chisda is not creating a new practical category. He is explaining that, for the *tumtum*, everyone agrees with the first Tanna of the Mishnah; the later Sages' leniency ("shorn and worked") applies only to the *androginos*.

Tosafot – ד"ה אבל טומטום דברי הכל ספיקא הוא כו'

QUESTION. Why is Rav Chisda so sure the later Sages treat the *tumtum* as a mere doubt? Is it because "a verse does not exclude a doubt"?

ANSWER. No. Tosafot explained earlier (on 41b) that the "no doubt before Heaven" argument does not fit the *tumtum* well: some *tumtumim* are in fact male and some female, so a verse could sensibly exempt the whole group while the doubt lasts. Rav Chisda's reason is rather that it is not reasonable to read the exclusion as applying to the *tumtum*, which is really a full male or a full female. R. Yochanan, who argues with Rav Chisda below, holds that the *tumtum* too is a separate creature, on which sanctity does not take effect even if it is later found to be male.

WHY THIS MATTERS. It frames the whole daf: the question is whether the *tumtum*, like the *androginos*, belongs to a category of its own, and R. Yochanan's later objection is a disagreement with Rav Chisda on exactly that point.

3. Rava's challenge from valuations: "delete *tumtum*" 41b–42a

Background: *arakhin* (ערכין, Vayikra 27) are vows in which a person pledges to the Temple the "valuation" of himself or another person. The Torah fixes the sum by age and sex alone; a male and a female of the same age have different valuations.

RAVA'S CHALLENGE. אלא מעתה בערכין יערך: "If so, then in valuations a *tumtum* should be subject to valuation!" If he is simply a male or a female whose sex is hidden, he is a real person with a real valuation. Yet a baraita teaches: הזכר ולא טומטום ואנדרוגינוס, "'the male' (Vayikra 27:3), and not a *tumtum* or *androginos*." Excluding the *tumtum* shows he is treated as a separate creature.

Rashi – ד"ה אלא מעתה

THE ISSUE. What exactly would follow from Rav Chisda's view?

RASHI'S EXPLANATION. If the *tumtum* is a doubt, he should be subject to valuation, either at a man's valuation or at a woman's.

WHY IT MATTERS. A doubt does not erase a person's status; it only leaves us unsure which of two valuations applies. Exempting him entirely therefore implies he is neither.

ANSWER. סמי מיכן טומטום: "Delete *tumtum* from here." Rav Chisda emends the baraita: it originally excluded only the *androginos*.

Tosafot – ד"ה אלמה תניא הזכר ולא טומטום ואנדרוגינוס

BACKGROUND. Tosafot note that the baraita derives the exclusion from an extra element in the word הזכר (Rashi: the added letter *heh*), not from the word "male" alone, and that it follows R. Yehuda, as the Gemara shows in Shabbat 136b, where Rav Chisda himself cites this baraita.

QUESTION. R. Yehuda disqualifies an *androginos* from sanctifying the waters of the red heifer with no special exclusion, simply from the source that excludes a woman; and for circumcision, on the contrary, an extra word ("every male") is needed to *include* him. Why, then, does valuations need an extra word to *exclude* him?

ANSWER. In R. Yehuda's view, simple reasoning already removes the *androginos* from the category "male"; that is why no verse is needed for the red heifer, and why circumcision needs a verse to include him. Valuations is different: by reasoning alone we would have given him at least a woman's valuation, so a verse is needed to remove him from the female valuation as well. Tosafot then raise a difficulty from Yevamot 72b, where R. Yehuda treats the *androginos* as a doubt, and conclude that for R. Yehuda he is indeed a doubt; the Torah included him for circumcision through "every male," and excluded him from valuations because he is irregular.

WHY THIS MATTERS. It shows that the source Rava cites is a carefully derived exclusion and explains why the *androginos* needed one, which is why Rav Chisda can keep the exclusion for the *androginos* while deleting the *tumtum*.

4. Three more baraitot from the Torah's sacrificial laws 42a

The Gemara now brings a series of sources, all with the same structure, and Rav Chisda gives the same answer to each.

SECOND BARAITA: VALUATIONS AGAIN. "One might think he is not given a man's valuation but is given a woman's valuation. Therefore the Torah says 'the male ... and if a female' (Vayikra 27:3–4): not a *tumtum* or *androginos*." This version explicitly rejects the "at least a woman" possibility. **ANSWER.** Delete *tumtum*.

Rashi – ד"ה סמי מכאן טומטום

THE ISSUE. Why must the baraita refer only to the *androginos*, and what then is the law for a *tumtum*?

RASHI'S EXPLANATION. Rashi first explains (on אם נקבה) that the exclusion comes from the extra word "if," and that a verse would not exclude someone because of doubt, for before Heaven there is no doubt; it can only be excluding a separate creature. So the verse excludes only the *androginos*. The *tumtum* is subject to valuation, and stringently, at a man's (higher) valuation.

WHY IT MATTERS. Rashi supplies the practical result of Rav Chisda's emendation: the *tumtum* gains a valuation, and the doubt is resolved against the one who vowed.

THIRD BARAITA: THE PEACE OFFERING. אם זכר אם נקבה זכר ודאי נקבה ודאית ולא טומטום ואנדרוגינוס: on the peace offering the Torah says "whether male or female" (Vayikra 3:1), which is read as "a definite male, a definite female," excluding the *tumtum* and *androginos*. **ANSWER.** Delete *tumtum*.

Rashi – ד"ה אם זכר אם נקבה

THE ISSUE. Why is this source especially strong against Rav Chisda?

RASHI'S EXPLANATION. A verse would not exclude for doubt; moreover, a peace offering may be either male or female. If the *tumtum* were merely an unidentified male or female, it would be fit whichever it is. Its exclusion can only mean it is a separate creature.

WHY IT MATTERS. Here no "doubt" argument could ever disqualify the animal, so the baraita, as written, treats the *tumtum* as a *beryah*. Rav Chisda must emend it.

FOURTH BARAITA: THE BURNT OFFERING. The baraita already quoted on 41b: "male" for the cattle burnt offering excludes a female; the second "male," for the flock burnt offering, is superfluous and comes to exclude the *tumtum* and *androginos*. Rashi notes that since the verse excludes them, the baraita treats the *tumtum* too as a separate creature. **ANSWER.** Delete *tumtum*.

5. Bird offerings and the "male and female" principle 42a

Background: a bird offering is not slaughtered but killed by *melikah* (מליקה), the kohen pinching its neck with his fingernail. A valid *melikah* on a fit bird makes it a proper offering. If the bird is unfit, its *melikah* is no better than strangling, and the bird is a *neveilah* (an animal that died without valid slaughter). The carcass of a kosher bird has a unique impurity: it does not defile by touch, but when a person eats it, it defiles the garments he wears while it is in his throat (מטמא בגדים בבית הבליעה).

FIFTH BARAITA. "A bird that was worshipped as an idol, one set aside for idolatry (*muktzeh*), one given as a harlot's fee (*etnan*), one received in exchange for a dog (*mechir*), a *tumtum* and an *androginos*: כולן מטמאין בגדים בבית הבליעה, all of them, if killed by *melikah*, defile garments in the throat." R. Eliezer says: a *tumtum* and *androginos* do not, for R. Eliezer would say: כל מקום שנאמר זכר ונקבה אתה מוציא טומטום ואנדרוגינוס מביניהם, "wherever 'male' and 'female' are stated, you exclude the *tumtum* and *androginos*"; but with birds, since the Torah does not mention male and female, they are not excluded. **ANSWER.** Delete *tumtum*.

Rashi – ד"ה מטמאים בגדים אבית הבליעה

THE ISSUE. How does a law about impurity in the throat contradict Rav Chisda?

RASHI'S EXPLANATION. The whole baraita concerns bird offerings. The first Tanna says the *melikah* of a *tumtum* is invalid, so it is a *neveilah*. If the *tumtum* were not a separate creature, why would its *melikah* be invalid? Male or female, it is fit, since for birds the Torah makes no distinction of sex. Rashi adds that R. Eliezer's statement poses the same difficulty: "wherever 'male and female' are stated, you exclude the *tumtum*"; would a verse exclude a mere doubt? Rather, it is a separate creature, excluded where the Torah excludes it and not where it does not.

WHY IT MATTERS. Both Tannaim of this baraita, as written, treat the *tumtum* as a *beryah*; they argue only whether that disqualifies it from bird offerings, which is why Rav Chisda's emendation must cover both.

Tosafot (ד"ה טומטום ואנדרוגינוס אין מטמאין בגדים אבית הבליעה) add that R. Eliezer means that they are fit to be offered, as his reason shows; he phrased it as "they do not defile" only because he was responding to the first Tanna, who said "they defile."

6. Substitution (*temurah*) and the five animals 42a

Background: *temurah* (תמורה) is the law that if one declares an ordinary animal a "substitute" for a consecrated one, the substitute becomes holy and the original remains holy too. Substitution takes effect even on a permanently blemished animal.

SIXTH SOURCE. R. Elazar (a Tanna) says: a *tereifah* (an animal with a fatal defect), *kilayim* (a hybrid), a *yotzei dofen* (one born by caesarean section), a *tumtum* and an *androginos*: לא קדושים ולא מקדישין, "they neither become holy nor make holy." Shmuel explained: לא קדושים בתמורה ולא מקדישין לעשות תמורה, they do not become holy as a substitute, nor, when they themselves are holy, do they make a substitute holy. **ANSWER.** Delete *tumtum*.

Rashi – ד"ה ולא מקדשין בעושי תמורה

THE ISSUE. How can these animals ever be holy so as to "make" a substitution, and where is the contradiction to Rav Chisda?

RASHI'S EXPLANATION. The case is where they are holy without being consecrated directly, for example as the offspring of a consecrated animal, which become holy together with their mother. Even so they cannot effect substitution. And if a *tumtum* were merely a doubt, why would it not be holy in every respect? Either way, male or female, the offspring of a consecrated animal is holy. (In the previous comment Rashi notes that substitution does not even take hold of them as substitutes, though it takes hold of a permanently blemished animal; the reason is given in Temurah 17a.)

WHY IT MATTERS. As with the peace offering, sex is irrelevant here, so a *tumtum*'s exclusion can only reflect the view that it is a separate creature.

SEVENTH SOURCE, AND A NUMERICAL PROBLEM. Another version: R. Elazar says *five* neither become holy nor make holy: the *tereifah*, *kilayim*, *yotzei dofen*, *tumtum* and *androginos*. Here the Gemara anticipates the usual reply: if you say "delete *tumtum*," only four remain! **ANSWER.** הוו להו ארבעה אפיק טומטום ועייל יתום: "Take out *tumtum* and put in *yatom*."

Rashi – ד"ה יתום

THE ISSUE. What is a *yatom* ("orphan"), and why does it belong in this list?

RASHI'S EXPLANATION. It resembles the others, which are disqualified from the moment of birth. As explained in Chullin 38b, it is an animal whose mother died at the moment of its birth: one separates toward death and the other toward life.

WHY IT MATTERS. Rav Chisda's emendation is not arbitrary: the replacement shares the defining feature of the list, an inherent disqualification from birth, so the count of five is preserved.

Each time the Gemara does not reject Rav Chisda's answer. The result is that Rav Chisda's position stands, but at the price of emending a whole series of baraitot.

7. A Tannaitic dispute: R. Shimon ben Yehuda 42a–42b

SUGGESTION. לימא כתנאי: "Shall we say this is a dispute among Tannaim?" A baraita: R. Ilai says in the name of R. Yishmael: the *androginos* is a firstborn and its blemish is with it. The Sages say: sanctity does not take hold of it. R. Shimon ben Yehuda says in the name of R. Shimon: הרי הוא אומר הזכר וכל מקום שנאמר זכר אינו אלא להוציא טומטום ואנדרוגינוס, "it says 'the male,' and wherever 'male' is said it comes only to exclude the *tumtum* and *androginos*."

WHY DELETE WON'T WORK. Could we again delete *tumtum* from R. Shimon ben Yehuda's statement? Then ר"ש בן יהודה היינו רבנן: he would be saying exactly what the Sages said! Rather, טומטום איכא בינייהו, the *tumtum* is the difference: the first Tanna holds that sanctity does not take hold of the *androginos*, but the *tumtum* is a doubt and holy out of doubt; and R. Shimon ben Yehuda comes to say that the *tumtum* too is a separate creature and is not holy. If so, Rav Chisda's "everyone agrees" seems contradicted by a Tanna.

Rashi – ד"ה לימא כתנאי

THE ISSUE. What exactly is being called a Tannaitic dispute?

RASHI'S EXPLANATION. Rav Chisda's statement: there are Tannaim who hold the *tumtum* is a doubt (and, by implication, one who does not).

WHY IT MATTERS. The challenge is no longer an isolated baraita that can be emended; it is a named Tanna whose words become meaningless without the *tumtum*.

Tosafot – ד"ה ואתא ר"ש בן רבי יהודה משום ר"ש למימר טומטום נמי בריה הוא

OBSERVATION. The Gemara's phrasing implies that R. Shimon ben Yehuda regards the *androginos* as a separate creature, for the same reason he gives regarding the *tumtum*. And even according to the conclusion, that he excludes the *tumtum* because it counts as female when it urinates from the female position, he still excludes the *androginos* because it is a separate creature.

QUESTION. In Yevamot 81a it appears that R. Shimon regards the *androginos* as a definite male (according to R. Yochanan's reading there).

ANSWER. Even if it is a definite male, "the male" still excludes it.

WHY THIS MATTERS. Tosafot reconcile R. Shimon's position across tractates: the *androginos* is excluded as an irregular creature even if technically male, while the *tumtum*'s exclusion rests on a different principle entirely, as the Gemara is about to show.

8. The resolution: all agree the *tumtum* is not a separate creature 42b

REJECTION OF THE SUGGESTION. דכולי עלמא טומטום בבריה לא מספקא זכר ונקבה הוא דמספקא: "No; everyone agrees the *tumtum* is not questionable as a separate creature; the only question is whether it is male or female." Where it urinates from the male position, all agree it is male. They argue where it urinates from the female position: one master (the first Tanna) holds חיישינן שמא נהפכה

זכרותו לנקבותו, "we are concerned that its male organ may have been turned toward its female position," so it remains a doubt; the other (R. Shimon ben Yehuda) holds we are not concerned, so it is simply a female, and therefore not a firstborn.

Rashi – ד"ה ות"ק סבר חיישינן שמא נהפכה זכרותו

THE ISSUE. What does "turned" mean, and how does this rescue Rav Chisda?

RASHI'S EXPLANATION. The male organ may be folded inward, discharging urine at the place where a female's normally is. R. Shimon ben Yehuda says we do not assume this; it is definitely a female. Rav Chisda's "everyone agrees it is a doubt" was meant to teach that one should not say that, for the later Sages, the *tumtum* too is a separate creature on which no firstborn sanctity can take hold. Rav Chisda does recognize a Tanna for whom there is not even a doubt, since urination decides: male position, male; female position, female. But all agree with Rav Chisda that sanctity can take hold of a *tumtum*.

WHY IT MATTERS. Rashi narrows Rav Chisda's claim precisely: "everyone" means everyone agrees the *tumtum* is a real male or female, not that everyone agrees it is a doubt in every case.

A PRACTICAL RULING. This is like the ruling of R. Elazar (an Amora; in Rashi's text the name is R. Ilai, and Rashi notes he is an Amora, not the Tanna who cited R. Yishmael): בבהמה מטיל מים במקום נקבות חולין, an animal [*tumtum*] that urinates from the female position is ordinary, unconsecrated, and not a firstborn, because it is definitely female. R. Elazar thus follows R. Shimon ben Yehuda.

Tosafot – ד"ה כי פליגי במטיל מים במקום נקבות

CLARIFICATION. Rav Chisda's "a *tumtum*, everyone agrees, is a doubt" must now refer to one that urinates from the female position, and according to the first Tanna. One that urinates from the male position is definitely male, and for R. Shimon ben Yehuda there is no doubt at all.

FIRST QUESTION. How does Rav Chisda know that the later Sages hold the *tumtum* is holy out of doubt? Perhaps they agree with R. Shimon ben Yehuda that it is not holy at all.

ANSWER. The later Sages argue about the *androginos* because it is a separate creature; they cannot differ on that basis about the *tumtum*, which, for Rav Chisda, no Tanna regards as a separate creature. Presumably, then, they agree with the first Tanna that it is holy out of doubt, just as R. Yishmael concedes.

SECOND QUESTION. Later (Bekhorot 57a) R. Shimon ben Yehuda excludes the *tumtum* and *androginos* from the animal tithe, learning tithe from sacrifices by a verbal analogy. But in sacrifices the *tumtum* is excluded because it counts as female, while in the tithe male and female are equal. What is the connection?

ANSWER. Rav Chisda says there too, "delete *tumtum*," and so does Reish Lakish below.

WHY THIS MATTERS. Tosafot show the cost of the Gemara's resolution: once the *tumtum*'s exclusion is reduced to a question of sex, it cannot explain laws where sex is irrelevant, and those sources must be emended as well.

9. R. Yochanan's objection: "Who abandons two and follows one?" 42b

R. YOCHANAN'S ASTONISHMENT. תהי בה ר' יוחנן מאן דלא חש לתנא קמא ולרבי ישמעאל: R. Yochanan was astonished at R. Elazar's ruling: "One who does not take into account the first Tanna and R. Yishmael!" Both of them, in our Mishnah, treat the *tumtum* as a doubt that is not slaughtered either in or outside the Temple; R. Yishmael argues only about the *androginos*.

Rashi – ד"ה לא לת"ק ולא לר' ישמעאל

THE ISSUE. Why name precisely these two Tannaim?

RASHI'S EXPLANATION. The first Tanna of the Mishnah says the *tumtum* is not slaughtered in the Temple or outside because it is a doubt, and R. Yishmael disagrees only regarding the *androginos*, whose female organ is a groove.

WHY IT MATTERS. R. Yochanan reads the Mishnah as treating every *tumtum* as a doubt, without any distinction by urinary position; R. Elazar's ruling contradicts both named views.

QUESTION. Let R. Yochanan also say: "one who does not take into account the later Sages," since Rav Chisda said that, for them too, a *tumtum* is a doubt!

ANSWER. R. Yochanan does not hold like Rav Chisda. In Rashi's words, for R. Yochanan the later Sages say the *tumtum* too is a separate creature.

FOLLOW-UP. If he does not hold like Rav Chisda, then let him say: R. Elazar ruled like the later Sages (whose view, on this reading, also makes the *tumtum* unconsecrated), so his ruling has a source!

ANSWER. מאן שביק תרי ועביד כחד: that is just what R. Yochanan meant: "Who abandons two and acts like one?" The first Tanna and R. Yishmael against the later Sages alone.

10. Reish Lakish: animals are different from humans 42b

QUESTION. According to whom did R. Elazar rule?

ANSWER. According to Reish Lakish: לא אמרו טומטום ספק אלא באדם הואיל וזכרותו ונקבותו במקום אחד, "they said a *tumtum* is a doubt only for a human, because his male and female organs are in one place." But in an animal, if it urinates from the male position it is male; if from the female position, female.

Rashi – ד"ה הואיל וזכרותו ונקבותו במקום אחד

THE ISSUE. Why does the location of urination prove nothing in a human, and how does this fit the Mishnah?

RASHI'S EXPLANATION. In a human, the male and female positions are in the same area, so one cannot tell them apart by urination. In an animal, they are far apart, and, per Rashi, there is no doubt at all according to everyone. The Mishnah's first Tanna, who says a firstborn *tumtum* is not slaughtered, speaks of one that urinates from the male position: it is definitely holy, so it cannot be slaughtered outside; yet it cannot be offered either, since it looks blemished, lacking a visible

male organ, and the Torah excludes it, "the male, and not a *tumtum*." R. Yishmael and the later Sages argue only about the *androginos*. So all agree, and R. Elazar's ruling holds for everyone.

WHY IT MATTERS. On Rashi's reading, Reish Lakish removes R. Yochanan's objection entirely: the Mishnah never addressed a *tumtum* that urinates from the female position.

Tosafot – ד"ה לא אמרו טומטום ספק אלא באדם

QUESTION (IMPLICIT). Can Reish Lakish's rule really be the view of all Tannaim, as Rashi suggests?

ANSWER. No. Reish Lakish speaks according to R. Shimon ben Yehuda, not according to everyone, for the first Tanna of our Mishnah clearly holds the *tumtum* is a doubt; that is why it may be slaughtered neither in the Temple nor outside.

WHY THIS MATTERS. Tosafot disagree with Rashi's reading. For Tosafot, the Mishnah's ruling itself is evidence of doubt, so Reish Lakish only supplies R. Elazar with a Tannaitic source; R. Yochanan's objection remains a real disagreement.

11. Rav Oshaya: "since it has changed, it has changed" 42b

CHALLENGE. Rav Oshaya objected to Reish Lakish: וליחוש שמא נהפכה זכרותו לנקבותו, "but let us be concerned that its male organ was turned toward its female position!"

REPLY. כמאן כר"מ דחייש למיעוטא: "Like whom? Like R. Meir, who is concerned about the minority?" Rashi: this is a rhetorical question; are we to be concerned for a lone opinion? Most such animals are female, and R. Meir's concern for minorities is not the accepted view.

A REJOINDER. Abaye bar Avin and Rav Chanina bar Avin both said: even according to the Sages, who disregard the minority, הואיל ואישתני אישתני, "since it has changed, it has changed." An animal that is already abnormal, born a *tumtum*, may be abnormal in another way as well, so the usual majority no longer applies to it.

OUTCOME. Some say "since it has changed, it has changed," and some say we do not say this.

Rashi – ד"ה ומשני אית דאמר אישתני · ד"ה אפי' תימא רבנן

THE ISSUE. How does the principle connect back to the Tannaim?

RASHI'S EXPLANATION. Even according to the Sages one can object this way: since it changed in becoming a *tumtum*, it may have changed in having its male organ inverted. The "some say" / "some say" maps onto the Tannaim: the first Tanna, who argues with R. Shimon ben Yehuda, applies the principle to animals, while R. Shimon ben Yehuda does not, and R. Elazar follows him.

WHY IT MATTERS. The dispute about the *tumtum* is now understood as a dispute about a general principle of presumption, which the Gemara next tests in an entirely different area of law.

12. Is "since it has changed" a Tannaitic dispute? The human *tumtum* and levirate marriage 42b

Background: if a man dies childless, his brother may marry the widow (*yibbum*, יבום) or release her through the ceremony of *chalitzah* (חליצה). Without one of these she may not marry anyone else. A *saris chamah* (סריס חמה), a congenital eunuch, was never capable of fathering children. According to R. Akiva he neither performs *chalitzah* nor *yibbum*, and his widow neither undergoes *chalitzah* nor *yibbum*, since he never had a time of fitness. She is then simply his brother's wife, forbidden to the brothers.

FIRST BARAITA. טומטום שקידש קדושיו קדושין נתקדש קדושיו קדושין: "A *tumtum* who betrothed a woman, his betrothal is valid; who was betrothed by a man, the betrothal is valid." וחולץ וחולצין לאשתו ומיבמים לאשתו: "He performs *chalitzah*, and his wife may receive *chalitzah* or *yibbum*."

Rashi – ד"ה ומייבמים את אשתו · ד"ה נתקדש קדושיו קדושין · ד"ה שקדש קדושיו קדושין

THE ISSUE. How can a betrothal be valid in both directions, and why may the widow have *yibbum*?

RASHI'S EXPLANATION. Both are stringencies: if he betrothed a woman she needs a bill of divorce, since he may be male; if a man betrothed him, that man is forbidden to the *tumtum*'s relatives (e.g., his mother and sister), since he may be female. *Yibbum* of his widow is permitted either way: if he was male, his brother properly performs *yibbum*; if female, the brother is simply marrying an unrelated woman. (Rashi on ד"ה וחולץ adds that the *tumtum* himself performs *chalitzah* only as a stringency, when he is the only brother; he does not perform *yibbum*, since he cannot father children.)

WHY IT MATTERS. This Tanna treats the *tumtum* as a doubt between male and female only; he never considers that, even if male, he might be a congenital eunuch.

SECOND BARAITA. אשת טומטום חולצת ולא מתייבמת: "The wife of a *tumtum* undergoes *chalitzah* but not *yibbum*."

ASSUMPTION. They assumed that both baraitot follow R. Akiva, who says a congenital eunuch neither performs nor receives *chalitzah* or *yibbum*.

SUGGESTION. Is this not their dispute? The one who permits *yibbum* for his wife does not say "since it has changed, it has changed": if he is male, he is a normal male. The one who says "*chalitzah* but not *yibbum*" does say it: since he changed into a *tumtum*, he may also have changed into a congenital eunuch even if found male.

Rashi – ד"ה ומ"ד אין מתייבמת סבר אמרינן הואיל ואישתני

THE ISSUE. Why does the eunuch possibility lead to precisely "*chalitzah* but not *yibbum*"?

RASHI'S EXPLANATION. If he is male his betrothal was valid; if he is a congenital eunuch, his widow has no bond to the brothers and is like the wife of a brother who left children, so whoever

took her in *yibbum* would violate the prohibition of a brother's wife. Yet *chalitzah* is still required, since it is not certain he is a eunuch.

WHY IT MATTERS. The two outcomes follow exactly from whether one adds the eunuch doubt to the male/female doubt.

REJECTION. No: הא ר"א והא ר"ע. Everyone says "since it has changed, it has changed"; the first baraita is R. Eliezer and the second is R. Akiva. Rashi: R. Eliezer holds that the widow of a congenital eunuch *does* undergo *yibbum*, "for such people are cured in Alexandria of Egypt," so for him *yibbum* is permitted either way.

WHICH TANNA FOLLOWS R. AKIVA? If it is R. Yehuda, he treats the *tumtum* as a definite eunuch, as the Mishnah teaches: טומטום שנקרע ונמצא זכר ה"ז לא יחלוץ מפני שהוא כסריס, "a *tumtum* who was torn open and found to be male shall not perform *chalitzah*, because he is like a eunuch." Rashi: then his widow would not even need *chalitzah*, since R. Akiva requires none for a eunuch's wife; but the baraita requires it.

ANSWER. Rather, it is R. Yosi b. R. Yehuda: טומטום לא חולץ שמא יקרע וימצא סריס חמה, "a *tumtum* does not perform *chalitzah*, lest he be torn open and found to be a congenital eunuch." His "lest" expresses a doubt, which yields exactly "*chalitzah* but not *yibbum*."

Rashi – ד"ה שמא יקרע כו'

THE ISSUE. If the *tumtum* "does not perform *chalitzah*," how is his own brother's widow ever released?

RASHI'S EXPLANATION. R. Yosi speaks where there are other brothers: the *tumtum* should not perform *chalitzah* since he may be a eunuch. But if there is no other brother, he performs *chalitzah*; the widow is not released with nothing, since he may not be a eunuch. Likewise his own wife needs *chalitzah* (perhaps he is not a eunuch) but not *yibbum* (perhaps he is).

WHY IT MATTERS. Rashi shows that R. Yosi's "lest" is a genuine doubt applied consistently in both directions, which is what distinguishes him from his father.

QUESTION. "Is everyone who is torn open found to be male, and never female?" Rashi: R. Yosi mentions only the eunuch possibility, as if he had no doubt about the *tumtum* being female.

ANSWER. שמא קאמר: he says "lest," meaning lest he be torn open and found female; or, alternatively, even if male, lest he be found a congenital eunuch.

13. R. Yehuda versus R. Yosi b. R. Yehuda; the chapter ends 42b–43a

QUESTION. What is the difference between them? Both say the *tumtum* "shall not perform *chalitzah*."

RAVA'S ANSWER. לפסול במקום אחים ולחלוץ שלא במקום אחים איכא בינייהו: "The difference is whether he disqualifies her where there are brothers, and whether he performs *chalitzah* where there are no brothers."

Rashi – ד"ה ולחלוץ שלא במקום אחין · ד"ה לפסול במקום אחין

THE ISSUE. What are the two practical cases?

RASHI'S EXPLANATION. (1) There are other, fit brothers, and the *tumtum* went ahead and performed *chalitzah*. For R. Yehuda he did nothing (he is a eunuch), so she is not disqualified and another brother may still perform *yibbum*. For R. Yosi, who treats it as a doubt, she is disqualified from the brothers: perhaps his *chalitzah* was valid, and once a brother has "not built" his brother's house he may not build it again, so another brother must perform *chalitzah*, not *yibbum*. (2) The *tumtum* is the only brother. For R. Yehuda she is released with nothing, since he is certainly a eunuch, as though he did not exist; for R. Yosi she needs *chalitzah*, since he may not be a eunuch, and his "shall not perform *chalitzah*" was said only where there are other brothers.

WHY IT MATTERS. Rava turns a seemingly identical ruling into two concrete differences, both flowing from whether the eunuch status is certain (R. Yehuda) or doubtful (R. Yosi).

With this the Gemara concludes the chapter *Al Elu Mumin* (הדרן עלך על אלו מומין), which listed the animal blemishes that permit a firstborn to be slaughtered. The next chapter, beginning on the same amud, turns to the blemishes that disqualify a kohen from Temple service; it is covered in the summary of Bekhorot 43.

The full picture in plain language

The daf is one long examination of a single claim by Rav Chisda: that the *androginos* may be a creature of its own, but the *tumtum* is just a hidden male or female. Five baraitot seem to say otherwise, because they exclude the *tumtum* from laws where "doubt" cannot be the reason: either because Heaven knows the animal's sex, or because the law (peace offerings, bird offerings, offspring of consecrated animals) treats male and female alike. Rav Chisda's consistent reply is textual: the word *tumtum* does not belong in those lists, and where the number "five" requires a replacement he supplies the *yatom*.

When a named Tanna, R. Shimon ben Yehuda, seems to exclude the *tumtum* from every "male," the Gemara does not emend him; it reinterprets the dispute. Everyone agrees a *tumtum* is male or female; the question is how to tell. If it urinates from the male position it is male. From the female position, the first Tanna worries the male organ may be inverted, while R. Shimon ben Yehuda calls it female. R. Elazar's ruling that such an animal is unconsecrated follows the latter, drawing R. Yochanan's protest that it rejects two Tannaim in favor of one. Reish Lakish defends it by distinguishing animals, where the organs are far apart, from humans; Rashi and Tosafot disagree on whether that makes the ruling unanimous.

Rav Oshaya's challenge introduces "since it has changed, it has changed": an abnormal body cannot be assumed normal in other respects. The Gemara tests whether that principle is debated, using the human *tumtum*'s marriage and levirate status, and concludes that it is accepted by both baraitot; the real dispute there is R. Eliezer versus R. Akiva on the congenital eu-

nuch. The final step distinguishes R. Yehuda, for whom a *tumtum* found male is certainly a eunuch, from his son R. Yosi, for whom it is only a possibility, and Rava draws out the two practical cases in which this matters. The chapter ends there.

Glossary

Hebrew	Transliteration	Meaning in this sugya
טומטום	*tumtum*	An animal or person whose genitals are covered by skin, so that its sex cannot be seen. The daf asks whether it is an unidentified male or female, or a category of its own.
אנדרוגינוס	*androginos*	One with both male and female organs. The later Sages hold it is a separate creature on which firstborn sanctity does not take hold.
בריה בפני עצמה	*beryah bifnei atzmah*	"A creature unto itself": a status that is neither male nor female. If the Torah excludes such a creature, it is excluded even though, before Heaven, there is no doubt about it.
ספק	*safek*	A doubt. A *tumtum* that is a *safek* is "holy out of doubt": treated stringently as possibly a firstborn.
בכור	*bekhor*	The firstborn male of a kosher domestic animal; holy from birth and given to a kohen. Sacrificed if unblemished, eaten outside the Temple if permanently blemished.
במדינה	*ba-medinah*	"In the provinces": outside the Temple. A blemished firstborn is slaughtered and eaten there.
גיזה ועבודה	*gizah va-avodah*	Shearing and labor, both forbidden with a firstborn. The Sages say an *androginos* "may be shorn and worked" because it is not a firstborn.
ערכין	*arakhin*	Valuation vows (Vayikra 27): pledging to the Temple a fixed sum set by a person's age and sex.
סמי מיכן	*sami mikan*	"Delete from here": Rav Chisda's emendation, removing *tumtum* from baraitot that list it as excluded.
מליקה	*melikah*	Killing a bird offering by pinching its neck with the kohen's fingernail. On an unfit bird it is invalid, and the bird is a *neveilah*.
בית הבליעה	*beit ha-beli'ah*	The throat. The carcass of a kosher bird defiles the garments of the one eating it while it is in his throat.
תמורה	*temurah*	Substitution: declaring an animal a replacement for a consecrated one, which makes the replacement holy as well.
טריפה	*tereifah*	An animal with a fatal defect; one of the animals that "neither become holy nor make holy."
כלאים	*kilayim*	Here, a hybrid animal (e.g., of a sheep and a goat).

יוצא דופן	*yotzei dofen*	An animal born through the side (by caesarean section).
יתום	*yatom*	"Orphan": an animal whose mother died at the moment of its birth. Rav Chisda inserts it in place of *tumtum* to keep the count of five.
חולין	*chullin*	Ordinary, unconsecrated. R. Elazar rules that a *tumtum* animal urinating from the female position is *chullin*, not a firstborn.
חייש למיעוטא	*chayeish le-mi'uta*	"Concerned for the minority": R. Meir's approach of taking less common possibilities into account; the Sages generally follow the majority.
הואיל ואישתני אישתני	*ho'il ve-ishtani ishtani*	"Since it has changed, it has changed": an already abnormal body may be abnormal in further ways, so ordinary presumptions do not apply to it.
יבום	*yibbum*	Levirate marriage: a brother marrying the widow of a brother who died childless.
חליצה	*chalitzah*	The ceremony that releases a childless widow from the levirate bond so she may marry anyone. After a valid *chalitzah*, no brother may perform *yibbum*.
סריס חמה	*saris chamah*	A congenital eunuch. For R. Akiva, he and his widow are outside the laws of *yibbum* and *chalitzah*; for R. Eliezer, his widow may have *yibbum*.
במקום אחים	*bi-mekom achim*	"Where there are brothers": where other, fit brothers can perform *yibbum* or *chalitzah*.
תנא קמא	*tanna kamma*	The "first Tanna": the anonymous opening opinion of a Mishnah or baraita.
רבנן בתראי	*rabbanan batrai*	"The later Sages": the Sages in the last clause of our Mishnah, who say an *androginos* is not a firstborn.

Sources: Gemara with relevant Rashi and Tosafot.